

Memorandum

To : Honorable Carole Migden, Chairwoman
Honorable Claude Parrish, Vice Chairman
Honorable Bill Leonard
Honorable John Chiang
Honorable Steve Westly

Date : May 1, 2003

From : 
Dade Powers, Chief
Administrative Support Division

Subject : **Proposed Contracts over \$1 Million**

The following information is being provided to further clarify the proposed contracts over \$1 million that will be presented for your approval at the May 6, 2003 Board Meeting.

- *Department of General Services - Property management of the Board of Equalization's (BOE) headquarters building* – No new information is being provided as this is a routine interagency agreement contract renewal for total property management and maintenance services including critical systems such as elevators, security, fire, life, and safety and heating ventilation and air conditioning.
- *Department of Motor Vehicles (DMV) - Collection of sales and use taxes on vehicles, undocumented vessels and transit district taxes for fiscal year 2003-04:* Pursuant to Revenue and Taxation Code Sections 6292 and 6293 and Vehicle Code Section 38211 (Attachment 1) DMV is required to collect the use tax on behalf of the BOE as part of the registration process. Accordingly, the BOE is required to reimburse the DMV for costs incurred in carrying out these provisions. Renewal of this interagency agreement contract would allow BOE to comply with the above noted provisions and appropriately reimburse DMV for the costs associated with the collection of the use tax on its behalf. Non-renewal of this contract would severely impact the state's revenue collection and require a legislative change to transfer collection authority to BOE.
- *Department of Toxic Substances Control (DTSC) – Administration of the Hazardous Substances Tax Program by the BOE:* Revenue and Taxation Code Section 43051 requires the BOE to administer and collect the fees imposed pursuant to Health and Safety Code Section 25174.1 (Attachment 2). The BOE is allowed by law to seek reimbursement from the DTSC for costs incurred in the administration of the Hazardous Substances Tax Program. Renewal of this interagency agreement contract would allow for the proper reimbursement to the BOE and is in compliance with the above noted provisions. Non-renewal of this contract would severely impact the state's revenue collection, result in the lay off of staff performing the functions associated with the program and require a legislative change to transfer collection authority to DTSC.
- *Inter-Con Security – Unarmed security guard service for the BOE headquarters building:* The attached spreadsheet (Attachment 3) compares the costing information for use of state security guards provided by the California State Employees Association (CSEA) at the April 23, 2003 Board Meeting, the BOE costing information for use of state security guards and the cost for the use of the Inter-Con Security contract. All costs are presented in an hourly rate format to coincide with those presented by CSEA. The costs provided by CSEA appear understated from those provided by BOE. The differences in the costing

have been footnoted for your easy reference. The comparison shows that contacting with Inter-Con Security will result in cost savings to the state.

Please feel free to contact me at 445-3498 if you have any questions regarding any of the contracts listed above or the information provided.

DP:mlm
Million\$Contracts.doc

Attachments

cc: Mr. James E. Speed
Mr. Timothy Boyer
Mr. Ramon Hirsig
Mr. David Gau
Ms. Raye Zentner
Ms. Darlene Allen

bcc: Ms. Betty Yee
Mr. Neil Shah
Ms. Barbara Alby
Mr. John Thiella
Ms. Marcy Jo Mandel

Attachment 1

Contract: Department of Motor Vehicles (DMV) - Collection of sales and use taxes on vehicles, undocumented vessels and transit district taxes for fiscal year 2003-04

- Revenue and Taxation Code Section 6292 and 6293
- Vehicle Code Section 38211

subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft as defined in this chapter are due and payable by the purchaser at the time the storage, use, or other consumption of the property first becomes taxable. Delinquency penalties and interest with respect to use tax for mobilehomes or commercial coaches registered annually with the Department of Housing and Community Development or for vehicles registered with the Department of Motor Vehicles shall be as provided in Section 6292. Delinquency penalties and interest with respect to use tax for vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code shall be as provided in Section 6293. Delinquency penalties and interest with respect to use tax for vessels and aircraft shall be imposed as if the due date of the tax were fixed by Section 6451.

History.—Stats. 1971, p. 3924, in effect December 23, 1971, operative July 1, 1972, added "or a vehicle subject to identification under Division 16.5 (commencing with section 38000) of the Vehicle Code." to first sentence, added provision for delinquency penalties and interest with respect to use tax for vehicles required to be identified under Division 16.5 (commencing with section 38000) of the Vehicle Code by reference to section 6293. Stats. 1981, Ch. 975, in effect January 1, 1982, substituted "a mobilehome . . . Safety Code, or of a vehicle" for "vehicles" after "state of" and "or of a vessel or an aircraft" for "and of vessels and aircraft" before "as defined" in the first sentence, and added "mobilehomes . . . Development or for" before "vehicles" in the second sentence. Stats. 2000, Ch. 861 (SB 2084), in effect September 29, 2000, added "or a vehicle . . . Vehicle Code" after "Vehicle Code or" in the first sentence, and added "or a vehicle . . . Vehicle Code" after "Vehicle Code" in the third sentence.

6292. Registration—Department of Motor Vehicles. (a) Except when the sale is by lease, when a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Housing and Community Development acting for and on behalf of the board pursuant to Section 18123 of the Health and Safety Code or to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

(b) If the purchaser makes an application to either department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the appropriate department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

History.—Stats. 1966, p. 186, in effect April 18, 1966, operative July 1, 1966, added "Except when the sale is by lease," to (a). Stats. 1976, Ch. 1284, operative March 23, 1977, changed "manufacturer, dealer, or dismantler" to "manufacturer, dealer, dismantler, or lessor-retailer, subject to the provisions of Section 11615.5 of the Vehicle Code." Stats. 1977, Ch. 607, operative January 1, 1978, in paragraph (b) changed "does not make timely application to that department, but" to read "makes an application to that department which is not timely, and" and added new paragraph (d). Stats. 1981, Ch. 975, in effect January 1, 1982, added "a mobilehome . . . Safety Code or" before "a vehicle," "the Health and Safety Code or" before the second "the Vehicle Code," and "the Department of Housing . . . Safety Code or to" before "the Department of Motor Vehicles in subdivision (a); substituted "either" for "that" before "department", added "or she" after "he", and deleted "of this code" after "Section 6591" in subdivision (b); substituted "the appropriate" for "that" before "department" in subdivision (c); and, substituted "either" for "that" before "department" and deleted "of this part" after "Section 6451" in subdivision (d). Stats. 1983, Ch. 1286, in effect January 1, 1984, added "remanufacturer" after "manufacturer" and substituted "shall" for "must" before "pay" in subdivision (a), and substituted "relieves" for "shall relieve" after the first "purchaser" in subdivision (c). Stats. 1991, Ch. 236, in effect July 29, 1991, substituted "18123" for "18076.15" after "pursuant to Section" in subdivision (a).

Purchases of vehicles subject to existing leases.—Leasing companies' purchases of vehicles subject to existing leases are taxable; consideration paid was the assumption of remaining unpaid liability for original purchase price. *Newco Leasing, Inc. v. State Board of Equalization* (1983) 143 Cal.App.3d 120.

6293. Vehicle subject to identification—Department of Motor Vehicles. (a) Except when the sale is by lease, when a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, is sold at retail by other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, or a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 38211 of the Vehicle Code.

(b) If the purchaser makes an application to that department which is not timely, and is subject to penalty because of delinquency in effecting identification or transfer of ownership of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591 of this code, but no interest shall accrue.

(c) Application to that department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to that department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

38211. (a) The department shall withhold identification of or the transfer of ownership of any vehicle subject to identification under this division until the applicant pays to the department the use tax measured by the sales price of the vehicle as required by the Sales and Use Tax Law, together with penalty, if any, unless the purchaser presents evidence on a form prescribed by the State Board of Equalization that sales tax will be paid by the seller or that use tax has been collected by the seller or that the State Board of Equalization finds that no use tax is due. If the applicant so desires, he may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his application for identification or transfer of ownership, and thereafter he may apply through the Department of Motor Vehicles to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section dollar fractions shall be disregarded in the manner specified in Section 9559 of this code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vehicles to which this section relates.

Attachment 2

Contract: Department of Toxic Substances Control (DTSC) – Administration of the Hazardous Substances Tax Program by the BOE

- Revenue and Taxation Code Section 43051
- Health and Safety Code Section 25174.1

CHAPTER 2. THE HAZARDOUS SUBSTANCES TAX

- Article 1. Imposition of Tax. §§ 43051-43057.
2. Registration and Security. §§ 43101-43102.

Article 1. Imposition of Tax

- § 43051. Administration and collection of fee.
§ 43052. Administration and collection of taxes. [Repealed.]
§ 43053. Fees.
§ 43054. Fees.
§ 43055. Surcharge administration. [Repealed.]
§ 43055. Surcharge administration.
§ 43056. Fees.
§ 43057. Fees.

43051. Administration and collection of fee. The fee imposed pursuant to Section 25174.1 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

History.—Stats. 1982, Ch. 496, in effect July 12, 1982, deleted "The board . . . collect" before "The fee" and added "shall . . . part" after "Code." Stats. 1989, Ch. 269, in effect August 3, 1989, substituted "25174.1" for "25174".

43052. Administration and collection of taxes. [Repealed by Stats. 1990, Ch. 1268, in effect September 25, 1990, but operative January 1, 1991.]

Text of section operative through June 30, 1998

43053. Fees. The fees imposed pursuant to Sections 25205.2, 25205.5, 25205.6, 25205.7, 25205.8, 25205.14, and 25221 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

History.—Added by Stats. 1986, Ch. 1506, effective September 30, 1986. Stats. 1989, Ch. 269, in effect August 3, 1989, substituted a comma for "and" after "25205.2" and added ", 25205.6, 25205.7, 25205.8, and 25347.6" after "25205.5". Stats. 1989, Ch. 1032, in effect September 29, 1989 added "and" after "25205.7," and deleted ", and 25347.6" after "25205.8". Stats. 1991, Ch. 1123, in effect October 14, 1991, deleted "and" after "25205.7", added "and 25221" after "25205.7". Stats. 1992, Ch. 1345, in effect January 1, 1993, added "25205.14" after "25205.8". Stats. 1997, Ch. 870 (SB 660), in effect January 1, 1998, but operative July 1, 1998, substituted "25205.7, and 25205.14" for "25205.6, 25205.7, 25205.8, 25205.14, and 25221" after "Sections 25205.2, 25205.5,".

Text of section operative July 1, 1998

43053. Fees. The fees imposed pursuant to Sections 25205.2, 25205.5, 25205.7, and 25205.14 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

History.—Added by Stats. 1986, Ch. 1506, effective September 30, 1986. Stats. 1989, Ch. 269, in effect August 3, 1989, substituted a comma for "and" after "25205.2" and added ", 25205.6, 25205.7, 25205.8, and 25347.6" after "25205.5". Stats. 1989, Ch. 1032, in effect September 29, 1989 added "and" after "25205.7," and deleted ", and 25347.6" after "25205.8". Stats. 1991, Ch. 1123, in effect October 14, 1991, deleted "and" after "25205.7", added "and 25221" after "25205.7". Stats. 1992, Ch. 1345, in effect January 1, 1993, added "25205.14" after "25205.8". Stats. 1997, Ch. 870 (SB 660), in effect January 1, 1998, but operative July 1, 1998, substituted "25205.7, and 25205.14" for "25205.6, 25205.7, 25205.8, 25205.14, and 25221" after "Sections 25205.2, 25205.5,".

Text of section operative through June 30, 1998

43054. Fees. The fees imposed pursuant to Section 25343 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

History.—Added by Stats. 1989, Ch. 1032, in effect September 29, 1989. Stats. 1991, Ch. 1123, in effect October 14, 1991, substituted "25343" for "25347.6" after "Section".

25174.1. (a) Each person who disposes of **hazardous waste** in this state shall pay a fee for the disposal of **hazardous waste** to land, based on the type of **waste** placed in a disposal site, in accordance with this section and Section 25174.6.

(b) "Disposal fee" means the fee imposed by this section.

(c) For purposes of this section, "dispose" and "disposal" include "disposal," as defined in Section 25113, including, but not limited to, "land treatment," as defined in subdivision (n) of Section 25205.1.

(d) Each operator of an authorized **hazardous waste** facility, at which **hazardous** wastes are disposed, shall collect a fee from any person submitting **hazardous waste** for disposal and shall transmit the fees to the State Board of Equalization for the disposal of those wastes. The operator shall be considered the taxpayer for purposes of Section 43151 of the Revenue and Taxation **Code**. The facility operator is not required to collect and transmit the fee for a **hazardous waste** if the operator maintains written evidence that the **hazardous waste** is eligible for the exemption provided by Section 25174.7 or otherwise exempted from the fees pursuant to this chapter.

The written evidence may be provided by the operator or by the person submitting the **hazardous waste** for disposal, and shall be maintained by the operator at the facility for a minimum of three years from the date that the **waste** is submitted for disposal. If the operator submits the **hazardous waste** for disposal, the operator shall pay the same fee as would any other person.

(e) Notwithstanding subdivision (d), the disposal facility shall not be liable for the underpayment of any disposal fees for **hazardous waste** submitted for disposal by a person other than the operator, if the person submitting the **hazardous waste** to the disposal facility has done either of the following:

(1) Mischaracterized the **hazardous waste**.

(2) Misrepresented any exemptions pursuant to Section 25174.7 or any other exemption from the disposal fee provided pursuant to this chapter.

(f) (1) Any additional payment of disposal fees that are due to the State Board of Equalization as a result of a mischaracterization of a **hazardous waste**, a misrepresentation of an exemption, or any other error, shall be the responsibility of the person making the mischaracterization, misrepresentation, or error.

(2) In the event of a dispute regarding the responsibility for a mischaracterization, misrepresentation, or other error, for which additional payment of disposal fees are due, the State Board of Equalization shall assign responsibility for payment of the fee to that person, or those persons, it determines responsible for the mischaracterization, misrepresentation, or other error, provided that the person, or persons, has the right to a public hearing and comment, and the procedural and substantive rights of appeal pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation **Code**.

(3) Any generator, transporter, or owner or operator of a disposal facility shall report to the department and the State Board of Equalization any information regarding any such mischaracterization, misrepresentation, or error, which could affect the disposal fee, within 30 days of that information first becoming known to that person.

(g) The State Board of Equalization shall deposit the fees collected pursuant to this section in the **Hazardous Waste** Control Account, for expenditure by the department, upon appropriation by the Legislature.

(h) The operator of the facility that disposes of the **hazardous waste** to land shall provide to every person who submits **hazardous waste** for disposal at the facility a statement showing the amount of

hazardous waste fees payable pursuant to this section.

(i) Any person who disposes of **hazardous waste** at any site that is not an authorized **hazardous waste** facility shall be responsible for payment of fees pursuant to this section and shall be the taxpayer for purposes of Section 43151 of the Revenue and Taxation **Code**.

(j) Any administrative savings that are derived by the state as a result of changes made to this section during the 1995-96 Regular Session of the Legislature shall be made available to the department and reflected in the annual Budget Act.

Attachment 3

Contract: Inter-Con Security – Unarmed security guard service for the BOE headquarters building

- Comparison of Costs Spreadsheet

**Board of Equalization
Headquarters Building Security Guard Services**

State Security Guard Classification		State Security Guard Classification			Inter-Con	
CSEA Costs		BOE Costs			Region 1 – Sacramento Area ⁵	
		9-Security Guards/3-Security Guard-Lead/1-OSS II			11-Security Guard/1-Lead	
Security Guard		Security Guard	Security Guard-Lead	Security Guard Supervisor (OSS II)	Security Guard 2	Security Guard-Lead
Wages ¹	\$ 23,208.88	\$25,584.00	\$26,499.20	\$34,776.00	24/7 Coverage	
Benefits ²	\$ 4,534.40	\$ 7,798.00	\$ 8,076.96	\$ 10,599.72	Contract Guard Supervisor	
Holidays/Time off ³	\$ 1,414.40	\$ 3,210.30	\$ 3,325.14	\$ 0.00	Equipment	
Uniform ⁴	\$ 457.60	\$ 405.00	\$ 405.00	\$ 0.00	Background Checks	
Equipment/Training/Background Checks	\$ 0.00	\$ 1,435.20	\$ 1,435.20	\$ 1,435.20	Drug Testing	
					Physical Examination	
					First Aid/CPR/Misc. Training	
					24-Hour Manned Dispatch Center	
					Uniforms	
					Benefits (seven state holidays, vacation, health/dental/vision coverage)	
					Back-up coverage (vacation, holidays, or sick leave)	
Total	\$ 29,614.40	\$ 38,432.50	\$ 39,741.50	\$ 46,810.92		
Hourly Wage	\$ 14.23	\$ 18.47	\$ 19.10	\$ 22.50	\$ 17.62	\$ 19.30

1. CSEA wages based on first step of salary range for Security Guard classification. BOE wages based on mid-range salaries for each classification. This assumption is based on merit salary adjustments over a 5-year period.
2. CSEA benefits were calculated at 19.55% and only included medical, dental and vision coverage. BOE benefits were calculated using 30.48%. This percentage includes OASDI, health insurance, retirement, workers compensation, industrial disability leave, non-industrial disability leave and unemployment insurance.
3. CSEA used 6 holidays and 2 weeks vacation vs. BOE used Bargaining Unit 15, Allied Services, Contract (13 holidays, 1 personal holiday, 10 days vacation and 8.6 days sick leave).
4. Bargaining Unit 15, Allied Services, contract states, "...uniform replacement allowance based on actual costs substantiated with a receipt for amount to be determined by the State, but not to exceed \$405.00 per year".
5. CSEA used an average of 3-region composite. BOE used Region 1 costs. Region 1 covers Sacramento, Eureka and Fairfield areas.

April 30, 2003